2. (Taschereau, J., *diss.*) That the prescription of one year under Art. 2262, C.C., applies to all actions for bodily injuries.

3. That it was necessary to plead prescription in this case, the prescription invoked by the defendants at the argument not being one against the plaintiff's action, and not falling under the provisions of Art. 2267, C.C., but being the consequence of another prescription acquired against a third party whose legal representative the plaintiff was not. Further, that the defendants had waived any pretention they might have had to invoke prescription, by their failure to raise the point during a protracted litigation of five years.

4. (Davidson, J., *diss.*) Where on a former trial, the jury awarded the plaintiff $3,000 damages, but the verdict was set aside by the Supreme Court on ground of misdirection, and on the second trial the jury allowed $6,500 damages: that the amount was not so excessive that the Court should set aside the verdict and order a new trial.—*Robinson* v. *C.P.R. Co.*, Taschereau, Würtele, Davidson, JJ., Jan. 31, 1889.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

LONDON, August 1, 1889.

Present:—THE EARL OF SELBORNE, LORD WATSON, LORD BRAMWELL, LORD HOBHOUSE, SIR RICHARD COUCH.

NORTH SHORE RAILWAY CO. (defendants), appellants, and PION et al. (plaintiffs), respondents.

Navigable river—Riparian owner—Right of access—Obstruction by railway company—Damages—Remedy.

[Continued from p. 399.]

The French case of Rousseray was considered by Mr. Justice Taschereau to be in point to the present; but their Lordships are unable to concur in that opinion. Even if it ought to be assumed (which is far from certain) that the law on which it was decided was in substance identical with the old French law in force in Lower Canada, before the British conquest, that case turned upon considerations which, in their Lordships' judgment, make it irrelevant to the question before them. It was the case of an *opus manufactum*, or pier, projecting into the bed of the River Seine, which a riparian owner had erected under a revocable license from the proper authorities. Those authorities afterwards executed works in the river which obstructed or prevented its use; and it was held that, as they could revoke the license whenever they pleased, the riparian owner had such use by tolerance only, and not right, and that there was no claim for compensation.

Most of the other French authorities cited, and also the case before this tribunal of *Mayor of Montreal* v. *Drummond*, related not to riparian rights, but to the extent to which the owner of a house fronting to a public street could claim compensation from the public authority for the indirect effect upon his convenience, as owner of such house, of obstructions or alterations in the street, made by that authority, at points more or less remote from his frontage. None of them had any tendency to show that if the direct and immediate access to the street from his house had been wholly or in part cut off, so as to take away or substantially diminish his right of *accès* to, or *sortie* from, the house itself, this would not have been a proper subject of indemnity. The contrary was treated as law by the Judicial Committee in *Mayor of Montreal* v. *Drummond*, 1 App. Ca., p. 406, and *Bell* v. *Corporation of Quebec*, 5 App. Ca., pp. 97, 98.

Their Lordships, therefore, concur in the view of the first question in this case taken by the Supreme Court of Canada. It remains to be considered whether the respondents' action was properly brought. That depends mainly upon the provisions of the Quebec Railway Consolidation Act of 1880.

The provisions and structure of that Act are too widely different from those of the English Lands Clauses and Railway Clauses Consolidation Acts to enable their Lordships to derive aid from the cases which have been decided upon those English Acts. In the English Acts, special and separate provision is made for lands not taken, but injuriously affected, and the procedure for obtaining compensation, applicable both to